

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TYRONE HAYWOOD,

Plaintiff,

-against-

TENNESSEE S. PALMER; A. VALLE,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 9/28/2021

21-CV-7277 (NSR)

ORDER

NELSON S. ROMÁN, United States District Judge:

Plaintiff, who is proceeding *pro se*, has submitted an application for the Court to request the appointment of pro bono counsel. (ECF No. 3.) For the following reasons, the Court denies the application without prejudice to renewal at a later stage.

Unlike in criminal proceedings, the Court does not have the power to obligate attorneys to represent indigent *pro se* litigants in civil cases. *Mallard v. U.S. Dist. Court for the S. Dist. of Iowa*, 490 U.S. 296, 308-09 (1989). Instead, pursuant to 28 U.S.C. § 1915 (e)(1), the Court may, at its discretion, order that the Pro Se Office request an attorney to represent an indigent litigant by placing the matter on a list circulated to attorneys who are members of the Court's pro bono panel. *Palacio v. City of New York*, 489 F. Supp. 2d 335, 344 (S.D.N.Y. 2007). The factors to be considered in ruling on an indigent litigant's request for counsel include the merits of the case, Plaintiff's efforts to obtain a lawyer, and Plaintiff's ability to gather the facts and present the case if unassisted by counsel. *See Cooper v. A. Sargenti Co.*, 877 F.2d 170, 172 (2d Cir. 1989); *Hodge v. Police Officers*, 802 F.2d 58, 60-62 (2d Cir. 1986). Of these, the merits are "[t]he factor which command[s] the most attention." *Cooper*, 877 F.2d at 172. At this early stage of the litigation, where Defendants have not yet been served or responded to the Complaint and no discovery has

taken place, Plaintiff cannot demonstrate that his position is “likely to be of substance.” *Hodge*, 802 F.2d at 61.

Accordingly, the Court denies Plaintiff’s application, without prejudice to renewal at a later stage. The Clerk of Court is directed to terminate the motion at ECF No. 3 and to mail a copy of this order to pro se Plaintiff at the address on ECF and to show service on the docket. SO ORDERED.

Dated: September 28, 2021
White Plains, New York

A handwritten signature in dark ink, appearing to read 'Nelson S. Román', is written over a light blue horizontal line.

NELSON S. ROMÁN
United States District Judge